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THE PACIFIC Commercial Advertiser. HONOLULU, HAWAIIAN ISLANDS, JANUARY 12, 1884.

VOL. XXVIII—NO. 29.

SUPREME COURT—IN EQUITY.

AT CHAMBERS.

Before McCully, vice Chancellor.

Wm. B. Castle, S. B. Dole and W. O. Smith vs.
His Excellency John M. Kapena, Minister of
Finance.

January 5th, 1884.

BILL FOR INJUNCTION.

Mr. A. S. Hartwell for plaintiff.

His Excellency Paul Neumann, Attorney General,
and Mr. E. Preston for defendant.

Mr. Hartwell read the prayer for injunction, of
which the following is the substance:

That your petitioners are residents, citizens and
tax payers in said Honolulu, and as such are en-
titled to the relief hereinafter prayed; that John M.
Kapena, Minister of Finance, defendant herein, is,
as your orators are informed and believe and so
aver on their information and belief, about to issue
a large number of bonds, to wit: one hundred and
thirty thousand dollars, of Hawaiian Government
Bonds purporting to be authorized by the Act en-
titled an Act to authorize a national loan, and to
define to what uses such loan shall be devoted, ap-
proved on the fifth day of August, A. D. 1882, said
bonds being by their terms and purport to be paid
at payable principal and interest in U. S. gold
coin or its equivalent; and that said defendant is
about to issue said bonds for certain silver coins
not of the value of U. S. gold coin or its equivalent,
but only of about 82 per cent of the value of U. S.
gold coin, wherefore your petitioners submit that
such proposed issue of said bonds would be illegal
and unauthorized by law. And your petitioners
further aver that they have requested said defendant
to issue said bonds only for U. S. gold coin or its
equivalent, and that he refuses to accede to such
request.

Wherefore your petitioners pray that an injunction
do issue out of this honorable Court directed to
said defendant enjoining and restraining him
until further order of this said Chief Justice from
issuing such bonds of silver coins as aforesaid, or
for any excepting only U. S. gold coin or its equivalent,
and that process do issue according to the
provisions of this Constitution to and against said
defendant and commanding him to appear and
show cause why such injunction shall not be made
permanent, and your petitioners further pray for
such further relief as may be appropriate.

Mr. Neumann read the answer of which the following
is a summary:

Now comes the defendant John M. Kapena, and
answering the bill of plaintiffs.

Denies that he is now or at any time or ever or
at all about to issue a large number, to wit: One
hundred and thirty thousand dollars or any number
of Hawaiian Government Bonds purporting to be
authorized by the Act mentioned in the complaint
or described in the complaint or any other
bonds whatever for certain or any silver coin
not of the value of U. S. gold coin or its equivalent
or of the value of 82 per cent of U. S. gold coin,
and he is now or at any time or ever or at all
about to issue any bonds whatever authorized to be
issued by law in any other manner or for any other
purpose than is provided for by law. And defendant
denies that he is about or intends or threatens or has
intended or threatened to issue any of the bonds
mentioned in the complaint for any other money
or in any other manner than as is provided in said
law, to wit: "Not below par" and for gold coin of
the U. S. or its equivalent. And defendant denies
that he has refused to issue such bonds only for
U. S. gold coin or its equivalent.

Wherefore the defendant prays that he be dis-
missed without delay and that he have and re-
cover from plaintiffs his costs in this behalf in-
curred.

He (Mr. N.) claimed that on the pleading he was
entitled to have the bill vacated. He further
claimed that the bill did not aver that defendant
is Minister of Finance, neither did it aver that the
complaints had any interest in the matter before
the Court.

Mr. Hartwell argued that the averments of the
bill were sufficient and would proceed to proofs.
He submitted the answer to the bill, and asked the
Court to produce a certain contract.

The Attorney-General contended that any con-
tract made by the Minister of Finance, and as he
averts under oath that he is not about to issue
bonds contrary to law. He further claimed that
the bill was defective in its averments.

Mr. Hartwell argued that he had the right to
put in testimony or affidavits against the answer.
It is discretionary with the Court whether to dis-
solve or hold the injunction upon the denial made
in the answer, and the old English rule, that the
injunction be dissolved upon the denial made in the
answer, has been amended and modified.

He considered the answer, in some particulars, to
be contradictory and evasive, and at variance with
the averments of the answer in the former Manu-
facture case.

The Attorney-General objected to any reference
being made to former cases, as in this case the
Minister has based his acts upon the decision of
the Court in the former case.

Mr. Hartwell proceeded to compare the answer
in this case with the answer in the Manu-
facture case. The answer in this case does not deny that defendant
is about to receive silver worth about 82 per
cent of U. S. gold coin. He contended that fur-
ther testimony should be allowed.

The Attorney-General again claimed that the
pleadings and the case. The averments of the
answer in this case does not deny that defendant
is about to receive silver worth about 82 per
cent of U. S. gold coin. He contended that fur-
ther testimony should be allowed.

Mr. Hartwell was of opinion that the answer
here, is consistent with the intention expressed in
the answer in the Manu-
facture case, and the com-
plaints desire to introduce testimony respecting
that intention, the denial of such intention, made
in the answer in this case, is not sufficient. The
ground could be covered by the defendant amend-
ing the answer.

The Attorney-General declined to make any
amendment whatever in the answer.

Mr. Hartwell said that if the Court will decide
on the pleadings, that an injunction was necessary
to restrain the Minister from issuing the bonds,
the complaints will proceed no further, as he be-
lieved it was English practice that where Manu-
facture or injunctions were applied for against high
public officers no process was taken out.

The Attorney-General said they would like to
have His Honor's decision as soon as possible.

The Court took time to consider its judgment
and promised to render the same as soon as pos-
sible.

The Court adjourned at 11 A. M.

Monday January 7th, 1884.

His Honor delivered the following judgment:

BY THE COURT.

Upon the foregoing pleadings, the respondent
claims that the bill should be dismissed and the
temporary writ vacated for the reason that the
sworn answer directly and clearly denies all the
equities of the bill; and rests his case.

The petitioners' controversy is that the answer
does not meet the bill, but is evasive, argu-
mentative, and in some parts irrelevant. They
refer to the answer in the Manu-
facture case, and claim that the answer in this
case, denying that he ever or at all was about to
issue bonds, conflicts with that answer. To which
the Attorney-General replies that all the averments
in the answer are to be taken to be matters
existing at the inception of this case; that since
the answer in the first case was made, there has
been a decision of the Court pronouncing an issue
of bonds, for the equivalent then proposed, to be
legal, which now makes it impossible for the
respondent to contemplate such issue.

Looking at the answer in this case standing by
itself, and considering that the information and
belief of the petitioners, as to the Minister's

HONOLULU, HAWAIIAN ISLANDS, JANUARY 12, 1884.

SUPREME COURT, 1884.

MR. JUSTICE MCCULLY, PRESIDING.

HAWAIIAN JURY, CRIMINAL CASES.

The King vs. John Clement. Larceny. The At-
torney General for the Crown, Messrs. W. B.
Castle, John Russell, and C. W. Ashford for de-
fendant.

The King vs. Kamoa. Larceny. The At-
torney General for the Crown, Mr. John Russell for
defendant.

The King vs. Sam Kelly. Assault with intent to
commit robbery.

HAWAIIAN JURY, CIVIL CASES.

Kunawa vs. Molaka. Ejectment. Messrs. Smith
and Thurston for plaintiff. Mr. J. L. Kaulukou
for defendant.

Molohai vs. Malia Aluahu. Ejectment. Appel-
lants. Mr. F. M. Hatch for plaintiff.

Anahiva, W. et al vs. Kanekoa, H. Ejectment.
Mr. F. M. Hatch for plaintiff.

Kabele Kapahu vs. Malapi et al. Ejectment.
Mr. Cecil Brown for plaintiff. Mr. W. A. Whiting
for defendant.

Hoolaina vs. Maria Kalulu. Ejectment. Mr. S.
B. Dole for plaintiff.

Kekipi, W. et al vs. Mamalo. Ejectment. Mr.
J. L. Kaulukou for plaintiff. Mr. J. L. Kaulukou
for defendant.

G. W. Phillips vs. Kamaheha. Assumpsit. Ap-
pel from the Intermediate Court. Mr. J. L. Kau-
lukou for plaintiff, respondent. Mr. John Russell
for defendant, appellant.

Mixed Jury Cases.

Samuel Staines vs. Lambart & Co. Assumpsit.
Mr. W. A. Whiting for plaintiff.

Mokuhia vs. Wm. Macdonald. Assumpsit. Ap-
pel from Intermediate Court. Mr. J. L. Kau-
lukou for plaintiff, appellant. Mr. F. M. Hatch for
defendant, respondent.

W. H. Holmes vs. Molaka. Trespass. Appel-
lants. Mr. J. L. Kaulukou for plaintiff, respondent.
Mr. John Russell for defendant, appellant.

Stephen Spencer vs. Mr. K. M. Maki. Assumpsit.
Messrs. Smith and Thurston for plaintiff. Mr. J.
A. Nakahi for defendant.

Kela et al vs. John H. Paly. Ejectment. Mr.
John Russell for plaintiff. Mr. W. B. Castle for
defendant.

FOREIGN JURY, CRIMINAL CASES.

The King vs. Ah Lee. Assault on a female
child. The Attorney General for the Crown, Mr.
John Russell for the defendant.

The King vs. Ah Lin. Perjury. The At-
torney General for the Crown, Messrs. Smith and
Thurston for the defendant.

The King vs. Ah Wong. Perjury. The At-
torney General for the Crown, Messrs. Smith and
Thurston for the defendant.

FOREIGN JURY, CIVIL CASES.

F. T. Lenahan & Co. assignees of Lee Chat vs.
W. S. Akana. Assumpsit. Mr. C. W. Ashford for
plaintiff. Mr. E. Preston for defendant.

Arthur C. Turtan vs. H. Hackfeld. Assumpsit.
Mr. E. Preston for plaintiff. Messrs. Smith and
Thurston for defendant.

G. Awana vs. Ah Hong. Assumpsit. Mr. C.
Brown for plaintiff. Mr. E. Preston for de-
fendant.

Heda Sugar Co. vs. Ann et al. Trespass. Mr.
F. M. Hatch for plaintiff. Mr. J. L. Kaulukou
for defendant.

J. F. Hackfeld et al. assignees of Chung Fan vs.
Lee Loy. Assumpsit. Mr. S. B. Dole for plaintiff.
Mr. E. Preston for defendant.

George L. Kenway vs. Charles Notley. Eject-
ment. Messrs. Smith and Thurston for plaintiff.
Mr. F. M. Hatch for defendant.

Mr. F. M. Hatch for defendant. The At-
torney-General for the Crown, Mr. E. Preston for
plaintiff. Mr. J. M. Davidson for defendant.

Mahukalihi vs. Hakaheka Hobson et al. Eject-
ment. Mr. F. M. Hatch for plaintiff. Mr. E. F. Ward
for defendant.

Ed. Hoffschlaeger & Co. vs. Wilhelm Meier &
Co. Assumpsit. Mr. E. Preston for plaintiff.

Her Majesty Queen Dowager Emma vs. Commis-
sioners of Crown Lands. Ejectment; Writ of
Habeas Corpus. Mr. E. Preston for defendant, ap-
pellants. Mr. J. M. Davidson for defendant, re-
spondents.

Mr. E. Preston for defendant, appellants. Mr.
J. F. Hackfeld et al vs. Ing Chee. Equity ap-
pel. Mr. R. F. Bickerton for plaintiff, respondent.
Mr. Cecil Brown for defendant, appellants.

Mr. R. F. Bickerton for plaintiff, respondent. Mr.
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